

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Boston Gas Company d/b/a
KeySpan Energy Delivery New England

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D.T.E. 03-40

**PETITION FOR LEAVE TO INTERVENE
OF THE BERKSHIRE GAS COMPANY**

Pursuant to G.L. c. 30A, §11 and 220 CMR Section 1.03, The Berkshire Gas Company (“Berkshire” or the “Company”) hereby petitions the Department of Telecommunications and Energy (the “Department”) for leave to intervene in the above-referenced proceeding. In support of this motion, Berkshire states the following:

1. Berkshire is a gas company, as defined in G.L. c. 164, §1, and is regulated by the Department pursuant to G.L. c. 164.
2. Berkshire maintains its principal offices at 115 Cheshire Road, Pittsfield, Massachusetts 01201.
3. On April 16, 2003 Boston Gas Company d/b/a KeySpan Energy Delivery New England (“KeySpan”) filed its Performance-Based Rate Plan and accompanying supporting material and rate schedules with the Department.
4. The Department’s investigation into the KeySpan rate plan and proposed rate schedules has been opened in docket D.T.E. 03-40.
5. The Department’s investigation in this proceeding will address issues dealing with performance-based rate making and other issues of common concern to

gas companies in Massachusetts, including Berkshire. The Department has previously recognized that its review of KeySpan's rate plan and "the policies, methods, and procedures developed in that review may be instructive to all distribution companies" Fitchburg Gas and Electric Light Company, D.T.E. 02-22, pp. 3-4 (2003).

6. KeySpan's rate filing also raised other issues of common interest including proposed changes to the Department's policies for the treatment of non-firm margins, a weather normalization clause to mitigate the effects of weather on consumer bills and the treatment of pension and post-retirement benefits other than pension expense.

7. The Department may allow any person that "may be substantially and specifically affected" by a proceeding to intervene as a party. G.L. c. 30A, §10; see also 220 CMR §1.03(1).

8. Berkshire is likely to be substantially and specifically affected by the Department's finding with respect to these issues of common application as well as the determinations made with respect to performance to KeySpan's rate plan. Berkshire continues to operate pursuant to the Price Cap Mechanism Plan approved in The Berkshire Gas Company, D.T.E. 01-56 (2002).

9. Berkshire expects to be able to participate in a manner consistent with the Department's statutory mandate to complete its review of KeySpan's rate plan by the end of the suspension period. Berkshire expects that its participation will be focused and limited to issues of more general application.

10. Berkshire's interests are unique and cannot be adequately represented by any other party.

11. Counsel for KeySpan has been contacted and has indicated that KeySpan does not object to Berkshire being granted intervener status in this proceeding.

12. Accordingly, Berkshire moves for leave to intervene in this proceeding and participate in this proceeding in consistent with the ground rules and procedures established by the hearing officers.

WHEREFORE, Berkshire respectfully requests that the Department grant this petition for leave to intervene and take such other necessary actions as may be necessary and appropriate.

Respectfully submitted,

THE BERKSHIRE GAS COMPANY

By its attorneys,

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